

## **REMARKS**

The Office Action dated October 16, 2006, has been received and carefully noted. The above amendments and the following remarks are submitted as a full and complete response thereto.

By this Amendment, claims 1, 3 and 10 have been amended. No new matter has been added. Claims 1-3 and 5-10 are pending and respectfully submitted for consideration.

### **Interview**

The Applicant wishes to thank the Examiner for the interview granted on April 11, 2007. In the interview, claims 1 and 10 were discussed. As a result of the interview, the Examiner indicated that the cited references would not read on the proposed claims in view of the amendments. The Applicant submits herewith the claims including the amendments discussed in the interview.

### **Rejections Under 35 U.S.C. § 112**

Claims 1, 3 and 10 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Applicants have amended the claims responsive to the rejection and respectfully submit that all claims are in compliance with U.S. patent practice.

### **Rejection Under 35 U.S.C. § 103**

Claims 1-3 and 5-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hassett et al. (U.S. Patent No. 5,144,553, "Hassett") in view of Park et al. (U.S. Patent No. 6,091,344, "Park") and Wyker (U.S. Patent Publication No 2001/0047296 A1). Hassett was cited for disclosing many of the claimed elements of the invention with the exception of setting the initial numbers of media higher with

purchase dates during an earlier time period. Park and Wyker were cited for curing this deficiency. The Applicant traverses the rejection and respectfully submits that claims 1-3 and 5-10 recite subject matter that is neither disclosed nor suggested by the cited references.

The Applicant notes that the paragraph beginning on page 5, line 16 of the Office Action states that Hassett discloses an initial value-setting means for setting the initial numbers of media with purchase dates and times between the opening and closing dates and times of the advance sale higher than those of media with purchase dates and times between the closing dates and times of the advance and ordinary sales. However, on page 6, lines 10 and 11, the Office Action acknowledges that Hassett does not disclose this feature. The Applicant respectfully submits that Hassett does not disclose or suggest an initial value-setting device (or means) for setting the initial numbers of media with purchase dates and times between the opening and closing dates and times of the advance sale higher than those of media with purchase dates and times between the closing dates and times of the advance and ordinary sales, as recited in claims 1 and 10, and respectfully request that the Office Action clarify its differing statements.

The Applicant also submits that Hassett fails to disclose or suggest additional features of the invention, beyond those acknowledged in the Office Action. Claims 1 and 10 recite "a storage area for storing sales to date from the opening date and time of the advance sale to the purchase date and time of each medium ... wherein the sales to date comprise total sales to the plurality of users, and wherein the larger the total sales to date is, the larger the initial number of times of unitary use is set, and the more the

total sales to date increases, the more the initial number of times of unitary use increases."

The Applicant respectfully submits that Hassett does not disclose or suggest this feature of the invention. In contrast, Hassett discloses a system for the automatic collection of tolls. There is no disclosure or suggestion of a discount. The Applicant submits that neither Park nor Wyker teach that total sales to date are used for calculating a discount ratio. Specifically, neither Park nor Wyker teach that the total sales to date are based on a plurality of users purchasing during an advance sale, and that the initial number of times of unitary use is increased based on the advanced sales to a plurality of users.

Park does not disclose or suggest that total sales to date are used for calculating a discount ratio. Park merely discloses an inquiring as to the numbers of a discount card. See column 7, lines 29-30 of Park.

Wyker discloses that an item is offered to a predetermined select group of consumers with a price discount established by the manufacturer of the item. See paragraph [0021] of Wyker. In one example, the manufacturer discount is targeted to only a select group of consumers based on consumer information and purchase history. See paragraph [0052] of Wyker. However, the discount is not based on total sales to a plurality of consumers.

As such, Hassett, Park and Wyker, either singly or in combination, do not disclose or suggest that the sales to date comprise total sales to the plurality of users, wherein the larger the total sales to date is, the larger the initial number of times of

unitary use is set, and the more the total sales to date increases, the more the initial number of times of unitary use increases.

To establish a *prima facie* case of obviousness, each and every feature of a rejected claim must be taught or suggested by the applied art of record. See M.P.E.P. § 2143.03.

In view of the above, the Applicant respectfully submits that Hassett, Park and Wyker fail to support a *prima facie* case of obviousness for purposes of a rejection of claims 1-3 and 5-10 under 35 U.S.C. § 103. Accordingly, claims 1-3 and 5-10 are not rendered obvious in view of Hassett, Park and Wyker and should be deemed allowable.

### **Conclusion**

The Applicant respectfully submits that claims 1 and 10 are allowable. Claims 2-3 and 5-9 depend from claim 1. The Applicant respectfully submits that each of these claims incorporate the patentable aspects thereof, and are therefore allowable for at least the same reasons as discussed above with respect to claim 1. Accordingly, the Applicant respectfully requests withdrawal of the rejections, allowance of claims 1-3 and 5-10, and the prompt issuance of a Notice of Allowability.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

Please charge any fee deficiency or credit any overpayment to counsel's Deposit  
Account No. 01-2300, referencing Attorney Dkt. No. 107390-00006.

Respectfully submitted,



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Enclosure: Petition for Extension of Time (three months)